

REMARKS/ARGUMENTS

With entry of the above Amendment, claims 19-30 remain in the application. Claim 19 is the only independent claim now pending in the application.

Applicant's attorney thanks the Examiner for the interview on September 4, 2003. As discussed at the interview and as indicated in the Interview Summary, the proposed amendments to claim 19 overcome the art of record.

Claims 19-23 are rejected under 35 U.S.C. §103(a) as unpatentable over a combination of eleven (11) references. Of the eleven (11) cited references, three (3) cited references, Munson, Wasserman and Taylor are combined to show applicants' claimed food delivery tray system. However, none of the eleven (11) cited references taken either alone or in combination and in particular, Munson, Wasserman and Taylor, taken either alone or in combination teach or suggest applicants' claimed method. Applicants' claimed invention is in part, directed to providing a plurality of wrapped food products which comprise an elongated food product to be protected during loading and shipping, an elongated food delivery tray system and an elongated flexible sheet wrap overlying the elongated food delivery tray system containing the elongated food product. In applicant's claimed invention, the food delivery tray system includes an elongated tray with potentially weakening features formed in its sidewall but which nonetheless exhibits sufficient strength and stiffness to withstand compression loads applied to one end of the elongated food delivery tray system. The compressive force applied to one of the end walls is transmitted along the food delivery tray system sidewalls, i.e., around the elongated food product, to the other of the end walls, in a direction extending along the longitudinal axis of the elongated food product. One example of an elongated food delivery tray system is shown in FIG. 5 of the instant application where both curved recesses and notches are spaced apart from one another but appear in the same sidewall. Further, as can be seen in FIG. 5, and as claimed in claim 19, the bottom of each notch is spaced from the elongated food delivery tray system bottom wall, with a line of weakness extending between the bottom of the notch and the bottom wall. Only applicants' claimed elongated food delivery tray

system in combination with other features of claim 19 shield the elongated food product from the applied compression loads, thus allowing delicate, frangible or farinaceous food products to be accommodated in an economical automated packaging environment. Neither Latif, Brizzi et al., Barnard, Ringler, Williamson, Kryzanowski, Bonville or Frost teach or suggest an elongated food delivery tray system, let alone the elongated food delivery tray system called for in applicants claim 19. Munson, Wasserman and Taylor are cited to show applicants' tray feature. A combination of Wasserman and Munson is proposed in the rejection. However, it is respectfully submitted that the combination of Wasserman and Munson is improper and that there is no suggestion to combine Wasserman with Munson in the manner indicated. Wasserman's features cited for addition to Munson must be located in the void space of Munson, the cutaway portion in the middle of the tray which contains no material with which to form Wasserman's selected structure. Wasserman is inconsistent with Munson, so much so that Wasserman can only entirely replace Munson's cited structure. For this reason alone, it is clear that there is no suggestion to combine Wasserman with Munson, let alone in the manner suggested in the rejection. Further, even if Wasserman and Munson were combined in some manner, this still would not result in applicants' claimed curved recesses which appear spaced apart from but on the same sidewall as applicants' claimed combination of a notch and a line of weakness which together cooperates to extend to the bottom wall of applicants' claimed elongated food delivery tray system. Further, neither Munson or Wasserman taken either alone or in combination with each other or with the remaining nine (9) cited references teach or suggest applicants' claimed wrapped food products in which an elongated food product is placed in an elongated food delivery tray system and then over wrapped with an elongated flexible sheet wrap and having end seals at opposite ends thereof to seal the elongated food product. In applicants' claimed method, the elongated flexible sheet wrap is incapable of providing compression strength to withstand compression loads experienced during packaging. Yet, when delivered to a consumer, the consumer is provided with immediate access to an end seal of the elongated flexible sheet wrap to withdraw the wrapped food product using the end seal as a handle for grasping and withdrawing the

wrapped food product despite resistance to withdrawal caused by contact with neighboring wrapped food products present in a tightly fitting configuration within the container.

In addition to Munson and Wasserman, Taylor is cited in combination with the remaining ten (10) references to show a curved recess in a wall of applicants' claimed tray. Taylor shows an elongated container for frankfurters and other food articles. The curved recess of Taylor, unlike applicants' claimed invention is formed in an end wall rather than the sidewall of the container. Taylor employs a multi-layer construction in which a curved recess is formed from three cooperating overlying panels appearing at one end of the container opposite an open end of the container. Taylor's curved recess feature, formed at the end of the elongated container does not carry the compressive load as called for in applicants' claimed invention. Taylor's curved recess does not cooperate with other potentially weakening features formed in a sidewall of a container. For these reasons, Taylor, taken either alone or in combination with Munson or Wasserman or any of the other eight (8) cited references teaches or suggests applicants' claimed invention.

In light of the above Amendment and remarks, it is respectfully submitted that the rejection of claims 19-23 has been fully overcome.

Claim 24 is rejected under 35 U.S.C. §103(a) over a combination of the eleven (11) references cited with respect to claims 19-23 and further in view of a twelfth reference, Pierce, Jr. Pierce, Jr. does nothing to overcome the deficiencies of the eleven cited references, as discussed above. Accordingly, the rejection of claim 24 which depends from claim 19 and incorporates limitations thereof is believed to have been fully overcome.

Claims 25 and 26 are rejected over a combination of thirteen (13) references, including the twelve references cited above taken in combination with Kingham et al. cited to show packaging of a cream cheese component. Claims 25 and 26 which depend either directly or indirectly from claim 19 and incorporate the limitations thereof are believed to be patentable for the reasons set forth above with

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respect to claim 19. Accordingly claims 25 and 26 are believed to be patentable and the rejection thereof is believed to have been fully overcome.

Claims 27-30 are rejected over a combination of fourteen references, including the thirteen references discussed immediately above, taken in combination with Phillips, Jr. cited to show a cigarette pack, carton and paperboard dimensions and particular a tray size having a stated length, width and depth. However, Phillips, Jr. taken either alone or in combination with the thirteen other cited references fails to overcome the deficiencies cited above with respect to claim 19 from which the rejected claims depend. Accordingly, it is believed that the rejection of claims 27-30 is fully overcome.

In light of the above Amendment and remarks, claims 19-30, all the claims now present in the application are believed to be allowable, and an early allowance of the application is respectfully requested.

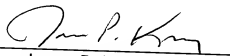
The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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By



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